## U.S. DEPARTMENT OF EDUCATION OFFICE OF ELEMENTARY AND SECONDARY EDUCATION WASHINGTON, D.C. 20202

# FY 2001 APPLICATION FOR GRANTS UNDER THE CHARTER SCHOOLS FACILITIES FINANCING DEMONSTRATION PROGRAM

CFDA Number: 84.354A

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**DATED MATERIAL - OPEN IMMEDIATELY** 

**Closing Date: 01/04/02** 

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## SECTION A

## DEAR COLLEAGUE LETTER

#### Dear Applicant:

Thank you for your interest in the Charter Schools Facilities Financing Demonstration Program administered by the U.S. Department of Education, Office of Elementary and Secondary Education. The Department is pleased to announce that approximately \$25 million will be available to support 3-5 demonstration projects under this program.

Currently, there are about 2,100 charter schools operating around the country. These public schools provide parents and students with options that can lead to better student achievement. However, many charter schools face significant challenges when trying to obtain facilities; insufficient revenue and lack of access to private funding for facilities top the list. The purpose of the Charter Schools Facilities Financing Demonstration Program (authorized by Title X, Part C, Subpart 2, Elementary and Secondary Education Act (ESEA)) is to support projects that test and demonstrate strategies for helping charter schools with varying degrees of creditworthiness gain access to financing for facilities.

This program will provide one-time competitive grants to eligible entities to demonstrate innovative credit enhancement strategies that assist charter schools in accessing private sector and other non-Federal capital. Grantees will place funds in a reserve account, which will then be used to attract capital to address the cost of acquiring, constructing, or renovating charter school facilities. The reserve account funds are not for the direct purchase, lease, renovation, or construction of school buildings.

Eligible applicants include public entities (such as State and local government entities), private non-profits, and consortia consisting of eligible entities. For example, a consortium, which consists of a State or local government entity and a private non-profit, would be eligible to apply. By statute, the Secretary is required to make, if possible, at least one award in each of the three categories of eligible applicants (public entities, private nonprofit entities, and consortia).

Information to assist in preparing your application is found in the Notice Inviting Applications and in the Application Contents section (Section C) of this application package.

Applications must be post-marked or hand-delivered to the Department in accordance with the section titled Application Transmittal Instructions no later than January 4, 2002, for consideration. An application that is not submitted by the deadline will be returned to the applicant and will not be considered.

We expect to make awards under this program approximately two months after the application deadline. The funds for the reserve account, once obligated (i.e., placed in a reserve account), will be available for use by the grantee, so long as they are used for the program purposes, until the funds are expended. Administrative cost funds must be obligated by September 30, 2003.

For further information, please contact Jennifer McMahon, Charter Schools Facilities Financing Demonstration Program, (202) 260-9738, e-mail jennifer.mcmahon@ed.gov.

Sincerely,

Susan B. Neuman, Ed.D. Assistant Secretary for Elementary and Secondary Education.

## SECTION B

## LEGAL DOCUMENTS

4000-01-U

DEPARTMENT OF EDUCATION

(CFDA No. 84.354A)

Office of Elementary and Secondary Education

Charter Schools Facilities Financing Demonstration Program

Notice inviting applications for new awards for fiscal year

(FY) 2001 funds.

PURPOSE OF PROGRAM: This program will provide one-time grants to eligible entities to permit them to demonstrate innovative credit enhancement initiatives that assist charter schools in accessing private sector and other non-Federal capital to address the cost of acquiring, constructing, and renovating facilities. Grant projects awarded under this program will be of a sufficient size, scope, and quality so as to ensure an effective demonstration of the proposed strategies.

ELIGIBLE APPLICANTS: (A) A public entity, such as a State or local governmental entity; (B) A private nonprofit entity; or (C) A consortium of entities described in (A) and (B).

<u>APPLICATIONS AVAILABLE</u>: [INSERT DATE OF PUBLICATION IN THE FEDERAL REGISTER].

<u>DEADLINE FOR TRANSMITTAL OF APPLICATIONS</u>: January 4, 2002

<u>DEADLINE FOR INTERGOVERNMENTAL REVIEW</u>: March 4, 2002

ESTIMATED AVAILABLE FUNDS: \$ 25,000,000.

ESTIMATED RANGE OF AWARDS: \$2,500,000-\$10,000,000.

ESTIMATED AVERAGE SIZE OF AWARDS: \$8,333,000.

ESTIMATED NUMBER OF AWARDS: 3 - 5. The Secretary will make, if possible, at least one award in each of the three categories of eligible applicants.

<u>Note:</u> The Department is not bound by any estimates in this notice.

PROJECT PERIOD: From the start date indicated on the grant award document until the Federal funds and earnings on those funds have been expended for the grant purposes or until financing facilitated by the grant has been retired, whichever is later.

<u>PAGE LIMIT</u>: We have found that reviewers are able to conduct the highest-quality review when applications are concise and easy to read. Applicants are encouraged to limit their applications to no more than 50 double-spaced pages (not including the required forms and tables), to use a 12-point or larger size font with one-inch margins at the top, bottom, and both sides, and to number pages consecutively.

<u>APPLICABLE REGULATIONS</u>: (a) The Education Department General Administrative Regulations (EDGAR) in 34 CFR parts 74, 75, 77, 79, 80, 82, 85, 86, 97, 98, and 99.

#### SUPPLEMENTAL INFORMATION:

APPLICATION CONTENT: Each Charter Schools Facilities

Financing Demonstration Program application must include the following specific program elements:

- 1. A statement identifying the activities proposed to be undertaken with grant funds (the "grant project") and the timeline for the activities, including how the applicant will determine which charter schools will receive assistance, how much and what types of assistance these schools will receive, and what procedures the applicant will use for documenting grant project procedures and results.
- 2. A description of the involvement of charter schools in the application's development and the design of the proposed grant project.
- 3. A description of the applicant's expertise in capital markets financing and organizational capacity to implement the proposed grant project successfully. (Consortium applicants must list information for each of the participating organizations.)
- 4. A description of how the proposed grant project will leverage the maximum amount of private sector and other non-Federal capital relative to the amount of Charter Schools Facilities Financing Demonstration Program funding used, the type of schools to be served, and the type of assistance to be provided, and how the proposed activities will otherwise enhance credit available to charter schools.
- 5. In the case of an application submitted by a State governmental entity, a description of current and planned

State funding policy and other forms of financial assistance that will help charter schools meet their facility needs.

USE OF FUNDS: Grant recipients must, in accordance with State and local law, directly or indirectly, alone or in collaboration with others, deposit the grant funds received under this program (other than funds used for administrative costs) in a reserve account established and maintained by the grantee for this purpose. Amounts deposited in such account shall be used by the grantee for one or more of the following purposes to assist charter schools in accessing private sector and other non-Federal capital:

- (1) guaranteeing, insuring, and reinsuring bonds, notes, evidences of debt, loans, and interests therein;
- (2) guaranteeing and insuring leases of personal and real property;
- (3) facilitating financing by identifying potential lending sources, encouraging private lending, and other similar activities that directly promote lending to, or for the benefit of, charter schools; and
- (4) facilitating the issuance of bonds by charter schools, or by other public entities for the benefit of charter schools, by providing technical, administrative, and other appropriate assistance (such as the retention of bond counsel, underwriters, and other advisors, attracting potential investors, the procurement of bond counsel, and the

consolidation of multiple charter school projects within a single bond issue).

Funds received under this program and deposited in the reserve account shall be invested in obligations issued or guaranteed by the United States or a State, or in other similarly low-risk securities. Investments shall be designed to preserve principal.

Any earnings on funds received under this program shall be deposited in the reserve account and be used in accordance with the requirements of this program.

An eligible entity receiving a grant under this Program shall use the funds deposited in the reserve account to assist one or more charter schools in accessing capital to accomplish one or both of the following objectives:

- (1) The acquisition (by purchase, lease, donation, or otherwise) of an interest (including an interest held by a third party for the benefit of a charter school) in improved or unimproved real property that is necessary to commence or continue the operation of a charter school.
- (2) The construction of new facilities, or the renovation, repair, or alteration of existing facilities, necessary to commence or continue the operation of a charter school.

Grantees must ensure that all costs incurred using funds from the reserve account are reasonable. The burden of proof

is upon the grantee, as a fiduciary under its agreements with the Secretary, to establish that costs are reasonable. Each grantee must also clearly indicate with respect to each financial obligation it enters into pursuant to this grant program that the full faith and credit of the United States is not pledged to the payment of funds under such obliqation. GRANTEE PERFORMANCE AGREEMENTS AND REPORTING REQUIREMENTS: Applicants that are selected to receive an award must enter into a Performance Agreement with the Department prior to receiving their award. A key element of the Performance Agreement is the performance goals. In developing performance goals, Department staff and each applicant will rely on the applicant's annual projections submitted under the Business/Organizational Capacity section of the application and the objectives established in the approved application. The Performance Agreement will also describe the ways in which the Department and the grantee will work together to accomplish the purposes of the program.

The Secretary, in accordance with chapter 37 of title 31, United States Code, shall collect all of the funds in the reserve account established with grant funds (including any earnings on those funds) if the Secretary determines that the grantee has permanently ceased to use all or a portion of the funds in such account to accomplish the purposes described in the authorizing statute and the Performance Agreement or, if

not earlier than 2 years after the date on which the entity first received these funds, the entity has failed to make substantial progress in undertaking the grant project.

During each fiscal year that the grantee's obligation to the Federal government remains in effect, grantees will submit reports (as detailed below) to the Department. The grantee's commitment continues for the duration of the Project Period.

Applicants selected for funding will be required to submit the following reports to the Department:

- 1. An annual report that includes:
- a. a copy of the most recent financial statements and any accompanying opinion on such statements prepared by the independent public accountant reviewing the financial records of the grantee;
- b. a copy of any report made on an audit of the financial records of the grantee conducted during the reporting period;
- c. an evaluation by the grantee of the effectiveness of its use of the Federal funds in leveraging private sector and other non-Federal funds;
- d. a description of characteristics of lenders and other financial institutions participating in activities undertaken by the grantee during the reporting period;
- e. a narrative description of the grantee's activities in support of the objectives of the Program and its performance

goals including a listing and description of the charter schools served during the reporting period; and

- f. such other information as the Secretary may require.
- 2. Semiannual reports that include internal financial statements and such other information as the Secretary may require in the Performance Agreement.

Grantees must also cooperate and assist the Department with any periodic financial and compliance audits of the grantee, as determined necessary by the Department. The specific grant agreement between the grantee and the Department may contain additional reporting requirements.

Grantees must maintain and enforce standards of conduct governing the performance of its employees, officers, directors, trustees, and agents engaged in the selection, award, and administration of contracts or agreements related to this grant. The standards of conduct should, at a minimum, require disclosure of direct and indirect financial or other interests, mandate disinterested decision-making, and indicate corrective actions to be taken in the event of violation.

LIMITATION ON ADMINISTRATIVE COSTS: A grantee may use not more than 0.25 percent (one quarter of one percent) of the grant funds for the administrative costs of the grant.

CHARTER SCHOOLS ELIGIBLE TO BENEFIT FROM THIS PROGRAM: The charter schools that a grantee selects to benefit from this

program must meet the definition of a charter school, as defined in the Public Charter Schools Program authorizing statute in section 10310 of the Elementary and Secondary Education Act of 1965. This definition is repeated as follows in this application notice for the convenience of the applicant.

- (1) A charter school is a public school that--
- (A) in accordance with a specific State statute authorizing the granting of charters to schools, is exempted from significant State or local rules that inhibit the flexible operation and management of public schools, but not from any rules relating to the other requirements of this paragraph;
- (B) is created by a developer as a public school, or is adapted by a developer from an existing public school, and is operated under public supervision and direction;
- (C) operates in pursuit of a specific set of educational objectives determined by the school's developer and agreed to by the authorized public chartering agency;
- (D) provides a program of elementary or secondary education, or both;
- (E) is nonsectarian in its programs, admissions policies, employment practices, and all other operations, and is not affiliated with a sectarian school or religious institution;
- (F) does not charge tuition;
- (G) complies with the Age Discrimination Act of 1975, title VI

of the Civil Rights Act of 1964, title IX of the Education

Amendments of 1972, section 504 of the Rehabilitation Act of

1973, and part B of the Individuals with Disabilities

Education Act;

- (H) is a school to which parents choose to send their children, and that admits students on the basis of a lottery, if more students apply for admission than can be accommodated;(I) agrees to comply with the same Federal and State audit requirements as do other elementary and secondary schools in
- (J) meets all applicable Federal, State, and local health and safety requirements;

the State, unless such requirements are specifically waived

(K) operates in accordance with State law; and

for the purpose of this program;

(L) has a written performance contract with the authorized public chartering agency in the State that includes a description of how student performance will be measured in charter schools pursuant to State assessments that are required of other schools and pursuant to any other assessments mutually agreeable to the authorized public chartering agency and the charter school.

METHODS FOR APPLYING SELECTION CRITERIA: The Secretary gives distinct weight to the listed criteria and the maximum score for each criterion is indicated in parenthesis. Within each criterion, the Secretary evaluates each factor equally. The

maximum score that an application may receive is 100 points. In evaluating applications for grants under this Program competition, the Secretary will use the following Project Selection Criteria. The selection criteria address two important questions:

- A. Does the applicant have the capacity to carry out the proposed grant project?
- B. Has the applicant proposed a grant project that will make a significant contribution toward meeting the purpose of the Charter Schools Facilities Financing Demonstration Program and thereby increase charter schools' access to facilities financing?
- A. The selection criteria related to the applicant's capacity to carry out the proposed grant project include:
- 1. The business and organizational capacity of the applicant to carry out the grant project (25 points).
- The amount and quality of experience the applicant has with the activities it proposes to undertake in its application, such as enhancing the credit on debt issuances, guaranteeing leases, and facilitating financing;
- The applicant's financial stability;
- The adequacy of the applicant's policies and procedures regarding loan underwriting, portfolio monitoring, and

financial management to protect against unwarranted risk; and

- The adequacy of standards of conduct to prevent conflicts of interest.
- 2. The grant project team (20 points).
- The qualifications, including relevant training and experience, of the project manager and other members of the grant project team, including consultants or subcontractors; and
- The adequacy of the applicant's staffing plan for the grant project.
- For non-profits only, the qualifications, including relevant training and experience, of members of the board of directors holding key positions.
- 3. The adequacy of resources (5 points)
- The resources to be contributed by each co-applicant (consortium member), partner or other grant project participant to the implementation and success of the grant project; and
- The extent to which the requested grant amount is reasonable in relation to the objectives, design, and potential significance of the proposed grant project.

- For State governmental entities, the extent to which steps have or will be taken to help charter schools within the State obtain adequate facilities.
- B. The selection criteria related to the potential contribution of the proposed grant project to achieving the purpose of the Charter Schools Facilities Financing Demonstration Program include:
- 1. The quality of the design and potential significance of the proposed grant project (35 points).
- The extent to which the grant project goals and objectives are clearly specified, measurable, and appropriate for the purpose of the Charter Schools Facilities Financing Demonstration Program;
- The extent to which the grant project implementation plan and activities, including the partnerships established, are likely to achieve the objectives sought by the project.
- The extent to which the proposed grant project is likely to produce results that will be documented and helpful to others nationally in providing facilities financing assistance to charter schools;
- The extent to which the grant project will use appropriate criteria for selecting charter schools for assistance and for determining the type and amount of assistance to be given;

- The importance or magnitude of the results or outcomes likely to be attained by the proposed grant project (e.g., the number and variety of charter schools assisted and the amount of capital leveraged).
- 2. The quality of the services (15 points).
- The extent to which the services to be provided by the proposed grant project are appropriate to the needs of the charter schools to be served;
- The extent to which charter schools and chartering agencies were involved in the design of and demonstrate support for the grant project;
- The extent to which the technical assistance and other services to be provided by the proposed grant project involve the use of cost-effective strategies for increasing charter school access to facilities financing; and
- The extent to which the services to be provided by the proposed grant project are focused on quality charter schools with the greatest needs.

WAIVER OF PROPOSED RULEMAKING: It is the Secretary's practice, in accordance with the Administrative Procedure Act (5 U.S.C. 553), to offer interested parties the opportunity to comment on proposed rules. Section 437(d)(1) of the General Education Provisions Act (GEPA), however, allows the Secretary to exempt from rulemaking requirements rules governing the

first grant competition under a new or substantially revised program authority (20 U.S.C. 1232(d)(1)). Funding for this new initiative was provided in the Department's FY 2001 appropriations act, enacted December 21, 2000. The Secretary, in accordance with section 437(d)(1) of GEPA, has decided to forego public comment in order to ensure timely grant awards.

FOR APPLICATIONS CONTACT: Education Publications Center (ED Pubs), P.O. Box 1398, Jessup, MD 20794-1398. Telephone (toll free): 1-877-433-7827. FAX: (301) 470-1244. If you use a telecommunications device for the deaf (TDD) you may call (toll free): 1-877-576-7734.

You may also contact ED Pubs at its Web site:

http://www.ed.gov/pubs/edpubs.html

Or you may contact ED Pubs at its e-mail address:

#### edpubs@inet.ed.gov

If you request an application from ED Pubs, be sure to identify this competition as follows: CFDA number 84.354A.

FOR FURTHER INFORMATION CONTACT: Jennifer Ryan McMahon, U.S.

Department of Education, 400 Maryland Avenue, SW, Room 3E239, Washington, DC 20202. Telephone: (202) 260-9738 or via

Internet:

#### Jennifer.McMahon@ed.gov

ELECTRONIC ACCESS TO THIS DOCUMENT: You may view this document, as well as all other Department of Education documents published in the Federal Register, in text or Adobe

Portable Document Format (PDF) on the Internet at the following site:

#### www.ed.gov/legislation/FedRegister

To use PDF you must have Adobe Acrobat Reader, which is available free at this site. If you have questions about using PDF, call the U.S. Government Printing Office (GPO), toll free, at 1-888-293-6498; or in the Washington, DC area at (202) 512-1530.

The Department intends to offer further information about the program at the following Internet site:

#### http://www.ed.gov/offices/OESE/goals/progresp.html

Individuals with disabilities may obtain this document in an alternative format (e.g., Braille, large print, audiotape, or computer diskette) on request using the contact information provided under FOR APPLICATIONS CONTACT.

Note: The official version of this document is the document published in the <u>Federal Register</u>. Free Internet access to the official edition of the <u>Federal Register</u> and the Code of Federal Regulations is available on GPO access at:

#### http://www.access.gpo.gov/nara/index.html

PROGRAM AUTHORITY: Elementary and Secondary Education Act of 1965, title X, part C, subpart 2, as amended by the Department of Education Appropriations Act, 2001, section 322.

Date:

Susan B. Neuman, Ed.D.

Assistant Secretary for Elementary and Secondary Education.

#### PROGRAM STATUTE

**Subpart 2--Credit Enhancement Initiatives To Assist Charter School Facility Acquisition, Construction, and Renovation** 

#### SEC. 10321. PURPOSE.

The purpose of this subpart is to provide one-time grants to eligible entities to permit them to demonstrate innovative credit enhancement initiatives that assist charter schools to address the cost of acquiring, constructing, and renovating facilities.

#### SEC. 10322. GRANTS TO ELIGIBLE ENTITIES.

- (a) IN GENERAL- The Secretary shall use 100 percent of the amount available to carry out this subpart to award not less than three grants to eligible entities having applications approved under this subpart to demonstrate innovative methods of assisting charter schools to address the cost of acquiring, constructing, and renovating facilities by enhancing the availability of loans or bond financing.
- (b) GRANTEE SELECTION- The Secretary shall evaluate each application submitted, and shall make a determination of which are sufficient to merit approval and which are not. The Secretary shall award at least one grant to an eligible entity described in section 10330(2)(A), at least one grant to an eligible entity described in section 10330(2)(B), and at least one grant to an eligible entity described in section 10330(2)(C), if applications are submitted that permit the Secretary to do so without approving an application that is not of sufficient quality to merit approval.
- (c) GRANT CHARACTERISTICS- Grants under this subpart shall be of a sufficient size, scope, and quality so as to ensure an effective demonstration of an innovative means of enhancing credit for the financing of charter school acquisition, construction, or renovation.
- (d) SPECIAL RULE- In the event the Secretary determines that the funds available are insufficient to permit the Secretary to award not less than three grants in accordance with subsections (a) through (c), such three-grant minimum and the second sentence of subsection (b) shall not apply, and the Secretary may determine the appropriate number of grants to be awarded in accordance with subsection (c).

#### SEC. 10323. APPLICATIONS.

- (a) IN GENERAL- To receive a grant under this subpart, an eligible entity shall submit to the Secretary an application in such form as the Secretary may reasonably require.
- (b) CONTENTS- An application under subsection (a) shall contain--
  - (1) a statement identifying the activities proposed to be undertaken with funds received under this subpart, including how the applicant will determine which charter schools will receive assistance, and how much and what types of assistance charter schools will receive;

- (2) a description of the involvement of charter schools in the application's development and the design of the proposed activities;
- (3) a description of the applicant's expertise in capital market financing;
- (4) a description of how the proposed activities will leverage the maximum amount of private-sector financing capital relative to the amount of government funding used and otherwise enhance credit available to charter schools;
- (5) a description of how the applicant possesses sufficient expertise in education to evaluate the likelihood of success of a charter school program for which facilities financing is sought;
- (6) in the case of an application submitted by a State governmental entity, a description of the actions that the entity has taken, or will take, to ensure that charter schools within the State receive the funding they need to have adequate facilities; and
- (7) such other information as the Secretary may reasonably require.

#### SEC. 10324. CHARTER SCHOOL OBJECTIVES.

An eligible entity receiving a grant under this subpart shall use the funds deposited in the reserve account established under section 10325(a) to assist one or more charter schools to access private sector capital to accomplish one or both of the following objectives:

- (1) The acquisition (by purchase, lease, donation, or otherwise) of an interest (including an interest held by a third party for the benefit of a charter school) in improved or unimproved real property that is necessary to commence or continue the operation of a charter school.
- (2) The construction of new facilities, or the renovation, repair, or alteration of existing facilities, necessary to commence or continue the operation of a charter school.

#### SEC. 10325. RESERVE ACCOUNT.

- (a) USE OF FUNDS- To assist charter schools to accomplish the objectives described in section 10324, an eligible entity receiving a grant under this subpart shall, in accordance with State and local law, directly or indirectly, alone or in collaboration with others, deposit the funds received under this subpart (other than funds used for administrative costs in accordance with section 10326) in a reserve account established and maintained by the entity for this purpose. Amounts deposited in such account shall be used by the entity for one or more of the following purposes:
  - (1) Guaranteeing, insuring, and reinsuring bonds, notes, evidences of debt, loans, and interests therein, the proceeds of which are used for an objective described in section 10324.
  - (2) Guaranteeing and insuring leases of personal and real property for an objective described in section 10324.
  - (3) Facilitating financing by identifying potential lending sources, encouraging private lending, and other similar activities that directly promote lending to, or for the benefit of, charter schools.

- (4) Facilitating the issuance of bonds by charter schools, or by other public entities for the benefit of charter schools, by providing technical, administrative, and other appropriate assistance (including the recruitment of bond counsel, underwriters, and potential investors and the consolidation of multiple charter school projects within a single bond issue).
- (b) INVESTMENT- Funds received under this subpart and deposited in the reserve account shall be invested in obligations issued or guaranteed by the United States or a State, or in other similarly low-risk securities.
- (c) REINVESTMENT OF EARNINGS- Any earnings on funds received under this subpart shall be deposited in the reserve account established under subsection (a) and used in accordance with such subsection.

#### SEC. 10326. LIMITATION ON ADMINISTRATIVE COSTS.

An eligible entity may use not more than 0.25 percent of the funds received under this subpart for the administrative costs of carrying out its responsibilities under this subpart.

#### SEC. 10327. AUDITS AND REPORTS.

- (a) FINANCIAL RECORD MAINTENANCE AND AUDIT- The financial records of each eligible entity receiving a grant under this subpart shall be maintained in accordance with generally accepted accounting principles and shall be subject to an annual audit by an independent public accountant.

  (b) REPORTS-
  - (1) GRANTEE ANNUAL REPORTS- Each eligible entity receiving a grant under this subpart annually shall submit to the Secretary a report of its operations and activities under this subpart.
  - (2) CONTENTS- Each such annual report shall include--
    - (A) a copy of the most recent financial statements, and any accompanying opinion on such statements, prepared by the independent public accountant reviewing the financial records of the eligible entity;
    - (B) a copy of any report made on an audit of the financial records of the eligible entity that was conducted under subsection (a) during the reporting period;
    - (C) an evaluation by the eligible entity of the effectiveness of its use of the Federal funds provided under this subpart in leveraging private funds;
    - (D) a listing and description of the charter schools served during the reporting period;
    - (E) a description of the activities carried out by the eligible entity to assist charter schools in meeting the objectives set forth in section 10324; and
    - (F) a description of the characteristics of lenders and other financial institutions participating in the activities undertaken by the eligible entity under this subpart during the reporting period.

(3) SECRETARIAL REPORT- The Secretary shall review the reports submitted under paragraph (1) and shall provide a comprehensive annual report to Congress on the activities conducted under this subpart.

## SEC. 10328. NO FULL FAITH AND CREDIT FOR GRANTEE OBLIGATIONS.

No financial obligation of an eligible entity entered into pursuant to this subpart (such as an obligation under a guarantee, bond, note, evidence of debt, or loan) shall be an obligation of, or guaranteed in any respect by, the United States. The full faith and credit of the United States is not pledged to the payment of funds which may be required to be paid under any obligation made by an eligible entity pursuant to any provision of this subpart.

#### SEC. 10329. RECOVERY OF FUNDS.

- (a) IN GENERAL- The Secretary, in accordance with chapter 37 of title 31, United States Code, shall collect--
  - (1) all of the funds in a reserve account established by an eligible entity under section 10325(a) if the Secretary determines, not earlier than 2 years after the date on which the entity first received funds under this subpart, that the entity has failed to make substantial progress in carrying out the purposes described in section 10325(a); or (2) all or a portion of the funds in a reserve account established by an eligible entity under section 10325(a) if the Secretary determines that the eligible entity has permanently ceased to use all or a portion of the funds in such account to accomplish any purpose described in section 10325(a).
- (b) EXERCISE OF AUTHORITY- The Secretary shall not exercise the authority provided in subsection (a) to collect from any eligible entity any funds that are being properly used to achieve one or more of the purposes described in section 10325(a).
- (c) PROCEDURES- The provisions of sections 451, 452, and 458 of the General Education Provisions Act (20 U.S.C. 1234 et seq.) shall apply to the recovery of funds under subsection (a).
- (d) CONSTRUCTION- This section shall not be construed to impair or affect the authority of the Secretary to recover funds under part D of the General Education Provisions Act (20 U.S.C. 1234 et seq.).

#### SEC. 10330. DEFINITIONS.

In this subpart:

- (1) The term 'charter school' has the meaning given such term in section 10310.
- `(2) The term `eligible entity' means--
  - (A) a public entity, such as a State or local governmental entity;
  - (B) a private nonprofit entity; or
  - (C) a consortium of entities described in subparagraphs (A) and (B).

# SECTION C APPLICATION CONTENTS

#### **GENERAL INSTRUCTIONS**

To compete for an award under this program, your completed application must include the following five parts:

## Part I: Application for Federal Assistance (Standard Form 424 (Rev. 11-99))

This part of your application consists of the standard application face page on which you provide basic identifying information about the applicant and the application. Specific instructions for completing this form are located on the back of the form.

#### Additional clarifications for completing this form:

- Private, non-profit or consortium applicants should complete block "N" of question # 7 and specify which type of applicant they are.
- All applicants should answer "no" to question #8.

#### **Consortium agreements:**

Consortium applicants must also submit consortium agreements as part of their application package. These applicants must either designate one member of the group to apply for the grant or establish a separate legal entity to apply for the grant. All members of the consortium must then enter into an agreement that details the activities that each member of the group plans to perform and that binds each member to the application statements and assurances. This consortium agreement must be submitted as part of the consortium's application. The Department's administrative regulations at 34 CFR sections 75.127--129 provide more details about the requirements that govern group/consortium applications.

## Part II: Program Narrative Addressing the Project Selection Criteria and the Application Content Requirements

This part of your application contains information responsive to the Project Selection Criteria and the Application Content Requirements. Make sure that your narrative addresses all of the elements. *We recommend that the information be organized around the Project Selection Criteria.* 

#### Please also include the following applicable tables:

- Table 1- Non-Grant Funds Projected to be Generated
- Table 2- Applicant Activity Table for the Most Recently Completed Fiscal Year

#### Part III: Budget Form and Related Information

This part of the application contains information about the Federal funding you are requesting. You must fill in the budget form and provide explanations and comments necessary to interpret the information you provide on this form.

#### Part IV: Assurances and Certifications

Be certain to include all assurances and certifications, and sign each form in the appropriate place. These include:

- Assurances—Non-Construction Programs
- Certifications Regarding Lobbying; Debarment; Suspension, and other Responsibility Matters; and Drug-Free Workplace Requirements
- Certification Regarding Debarment; Suspension; Ineligibility; and Voluntary Exclusion- Lower Tier Covered Transactions
- Disclosure of Lobbying Activity

#### Part V: Response to Section 427 of GEPA Guidance

This part of the application includes a narrative that responds to the Section 427 of GEPA notice that is included in the application package.

Please complete the Application for Federal Assistance (ED 424) This form is included in all hard copies of the application. The electronic form is available at this site at http://www.ed.gov/offices/OCFO/grants/appforms.html

#### **PROJECT SELECTION CRITERIA**

#### The Challenge: Helping Charter Schools with a Variety of Credit Risks

Charter schools face significant challenges when trying to obtain facilities. Insufficient funding streams and lack of access to private financing top the list. Typically charter schools do not benefit from the established State and local revenue streams that support facilities expenses for traditional public schools. As a result charter schools often must use a portion of their limited operating budgets to cover these costs. Given that these expenditures (be they lease payments or debt service) tend to be large, many charter schools must seek additional sources of funding.

Many factors affect the extent to which charter schools have equitable access to private sector and other capital for financing. The length of time the school has been in operation, its size, and the populations being served all play into the school's ability to obtain financing and a reasonable rate. For example, lenders may feel more comfortable working with well-established schools with proven track records than start-ups, and they may find schools working with high achieving populations a safer risk than those serving low performing students.

The purpose of this program is to support projects that demonstrate effective strategies for helping charter schools with varying degrees of credit-worthiness gain access to financing for facilities.

The Secretary will select for funding under the Charter Schools Facilities Financing Demonstration Program those applications that are deemed of highest overall quality. Experts in finance, including school facilities finance and credit enhancement, will review the applications and assign to each application up to 100 points using the Project Selection Criteria and corresponding weights described in this section. Each criterion includes factors the reviewers will consider in determining how well an application meets the criterion.

Reviewers will use their own professional judgment to assess the quality of each application against these criteria. To be competitive, applicants must address each of the selection criteria fully and clearly. The kind of information needed to accomplish this for each criterion is discussed below. Since much of the information needed to fully address each criterion is also information that is required for other purposes (see the Application Content Requirements section of this package), we recommend that applicants organize their application narrative around the Project Selection Criteria.

The Project Selection Criteria that will be used by the application reviewers address two important questions:

- A. Does the applicant have the capacity to carry out the proposed grant project?
- B. Has the applicant proposed a grant project that will make a significant contribution toward meeting the purpose of the Charter Schools Facilities Financing Demonstration Program and thereby increase charter schools' access to facilities financing?

### A. The selection criteria related to the applicant's capacity to carry out the proposed grant project include:

1) The business and organizational capacity of the applicant to carry out the grant project (25 points).

This criterion focuses on the applicant's expertise in capital market financing and its organizational capacity to implement the proposed project. The applicant will need to document its financial track record and strength, its ability to protect against unwarranted financial risk; its expertise in credit assessment, including school facilities financing; its experiences in facilitating financing including both debt issuance and credit enhancement, and its knowledge of the charter school market. The Application Content Requirements section of this package (pages XXXXX) describes some of the specific data and documents to be provided regarding business and organizational capacity.

Factors that will be considered in assessing the applicant's business and organizational capacity include:

- The amount and quality of experience the applicant has with the activities it proposes to undertake in its application, such as enhancing the credit on debt issuances, guaranteeing leases, and facilitating financing;
- The applicant's financial stability;
- The adequacy of the applicant's policies and procedures regarding loan underwriting, portfolio monitoring, and financial management to protect against unwarranted risk; and
- The adequacy of standards of conduct to prevent conflicts of interest.

#### 2) The grant project team (20 points).

This includes the relevant training and experience of key grant project personnel, consultants, subcontractors, and for nonprofits, members of the board of directors holding key positions. Successful applicants will plan to use the services of individuals with substantial experience and expertise in facilities financing, charter schools, and other appropriate areas. They will provide the information requested in the Application Content Requirements section of this package. This will include, among other things, a description of current job responsibilities, the education background, and the experience and skills of each member of the grant project team through current resumes or detailed biographical statements. The applicant also should describe its staffing plan for the project, including a description of the assignments by activity or service.

Factors used to assess the grant project team include:

- The qualifications, including relevant training and experience, of the project manager and other members of the grant project team, including consultants or subcontractors; and
- The adequacy of the applicant's staffing plan for the grant project.
- For non-profits only, the qualifications, including relevant training and experience, of members of the board of directors holding key positions.

#### 3) The adequacy of resources (5 points)

This criterion is concerned with the resources that will be provided for the grant project, including the reasonableness of the amount of grant funds requested, and the contributions to be made by grant project participants (the applicant, co-applicants, partners or other participating entities). Successful applicants will seek a reasonable amount of funding in view of the number of schools they plan to serve and the type of assistance they plan to provide. They also will involve other entities that can further the grant project goals.

Factors used to assess adequacy of resources include:

- The resources to be contributed by each co-applicant (consortium member), partner or other grant project participant to the implementation and success of the grant project; and
- The extent to which the requested grant amount is reasonable in relation to the objectives, design, and potential significance of the proposed grant project.

 For State governmental entities, the extent to which steps have or will be taken to help charter schools within the State obtain adequate facilities.

## B. The selection criteria related to the potential contribution of the proposed grant project to achieving the purpose of the Charter Schools Facilities Financing Demonstration Program include:

1) The quality of the design and potential significance of the proposed grant project (35 points).

This criterion addresses the goals, objectives, and activities of the grant project, how the applicant will determine the viability of an individual school as an educational enterprise and therefore as a target for investment, the number and type of charter schools that it anticipates will obtain facilities as a result of the grant project, the amount and type of assistance they will receive, and how the applicant will document grant project activities and results. Successful applicants will provide comprehensive plans with clear goals, objectives, and activities with specific timelines and that are aligned with the four statutory purposes for which reserve account funds may be used. They will describe the partnerships they plan to develop to help further the purposes of the program and how they will leverage private sector and other non-Federal capital for financing charter school facilities. They will give their projections for the amounts to be leveraged relative to the amount of government funding used. They also will discuss how they will invest funds from the reserve account, and provide an estimate of the earnings they expect from these investments, and from fees, interest or other sources.

This criterion also addresses the grant project's potential impact on the national need for charter school facilities and, in that regard, its potential as a model for others. Since this is a demonstration program, grant projects should increase our knowledge of effective ways to address charter school facilities challenges. The most successful applicants are likely to provide services to a number of charter schools, including startups. They will accomplish this, in part, by leveraging a significant amount of capital for investment in charter school facilities. They will clearly document their activities and the resulting outcomes for the different types of schools served, and will demonstrate that their grant projects are likely to help many other charter schools acquire appropriate facilities in the future.

Factors used to assess the project's quality of design and significance include:

- The extent to which the grant project goals and objectives are clearly specified, measurable, and appropriate for the purpose of the Charter Schools Facilities Financing Demonstration Program;
- The extent to which the grant project implementation plan and activities, including the partnerships established, are likely to achieve the objectives sought by the project;
- The extent to which the proposed grant project is likely to produce results that will be documented and be helpful to others nationally in providing facilities financing assistance to charter schools;
- The extent to which the grant project will use appropriate criteria for selecting charter schools for assistance and for determining the type and amount of assistance to be given; and
- The importance or magnitude of the results or outcomes likely to be attained by the proposed grant project (e.g., the number and variety of charter schools assisted and the amount of capital leveraged.)

#### 2) The quality of the services (15 points).

This criterion is concerned with the immediate benefits to be provided to charter schools as a result of the grant project. In this regard it addresses questions about the fit between the assistance to be provided and the needs of the recipients of the services. It also considers the costeffectiveness of the services to be provided. Successful applicants will demonstrate that charter schools participated in the development of the grant project and in the identification of the specific needs to be addressed by the grant project. These applicants may have letters of endorsement from charter schools or otherwise document charter school support. In addition, these applicants will focus on quality charter schools with the greatest need for facilities and an inability to access private sector capital. They are likely to succeed in meeting the needs of charter schools that are just starting up as well as more established charter schools. Applicants also should describe how their services would impact the charter schools in terms of burdens (such as fees and paperwork) and benefits -- financial and otherwise.

Factors used to assess the quality of the services include:

- The extent to which the services to be provided by the proposed grant project are appropriate to the needs of the charter schools to be served;
- The extent to which charter schools and chartering agencies were involved in the design of and demonstrate support for the grant project;
- The extent to which the technical assistance and other services to be provided by the proposed grant project involve the use of cost-effective strategies for increasing charter school access to facilities financing; and
- The extent to which the services to be provided by the proposed grant project are focused on quality charter schools with the greatest needs.

#### **APPLICATION CONTENT REQUIREMENTS**

Each Charter Schools Facilities Financing Demonstration Program application must include the following information except as noted below:

- (1) A statement identifying the activities proposed to be undertaken with grant funds (the "grant project") and the timeline for the activities, including how the applicant will determine which charter schools will receive assistance, how much and what types of assistance these schools will receive, and what procedures the applicant will use for documenting grant project procedures and results.
- (2) A description of the involvement of charter schools in the application's development and the design of the grant project.
- (3) A description of the applicant's expertise in capital markets financing and organizational capacity to implement the proposed grant project successfully. (Consortium applicants must list information for each of the participating organizations.)

This description must include the applicant's:

- A. Operational Capacity and Risk Mitigation Strategies as evidenced by:
  - 1. Age of Organization

Identify how long the organization has been in existence. (Consortiums should identify the ages of each of the participating organizations.)

2. Policies and Procedures

Provide a brief summary of the following applicant policies and procedures indicating whether they are approved by the applicant's governing board and when they were implemented. If they are not currently in place, describe what steps the organization will take to develop and implement such policies and procedures. If the practices differ from the policies and procedures, explain.

 Underwriting Standards for Participants:
 Process for evaluating creditworthiness of charter school participants, including criteria for providing guarantees or other credit enhancement.

- b. Portfolio Monitoring: Monitoring process, risk rating methodologies, and debt restructuring, collections, and write-off policies.
- c. Financial Management/Risk Mitigation: Internal controls and operating policies for safeguarding assets including cash management; maintaining liquidity and operating reserves; investment of idle cash; and risk mitigation strategies (e.g. portfolio diversification, adopting internal lending limits, establishing and adjusting debt loss reserves, and in seeking third party insurance against default by the applicant).

#### 3. Standards of Conduct

Provide a copy of the **standards of conduct** for your organization if they exist. The standards of conduct should, at a minimum, require disclosure of direct and indirect financial or other interests, mandate disinterested decision-making, and indicate corrective actions to be taken in the event of violation.

#### B. Financial Track Record and Strength as evidenced by:

#### 1. Credit Rating

Submit the most recent *credit rating and report* prepared for the organization by a major bond rating agency, including Standard and Poor's, Moody's Investors Service, and Fitch IBCA. If the organization does not have a credit rating, please indicate.

#### 2. Financial Statements

Submit *audited financial statements*, for the applicant's three most recently completed fiscal years. If audited statements are not available please provide *financial statements* for the applicant's three most recently completed fiscal years that have been

### reviewed by an independent Certified Public Accountant (C.P.A.).

Such documents must include:

- a. Balance sheets or statements of financial position:
- b. Income statements or statements of activities;
- c. Statements of cash flows; and
- d. Notes to the financial statements and, if applicable, auditor's opinion letter and any reports of findings.

If neither audited nor C.P.A.-reviewed financial statements are available, submit internal financial statements and explain why audited or C.P.A.-reviewed financial statements are not available. If the audited financial statements of the applicant are consolidated with its affiliates and do not include separate schedules on the applicant's financial position and income statements, also submit a separate set of internal financial statements which clearly distinguish the applicant's financial information from that of the affiliates.

#### 3. Portfolio Quality

Provide a narrative explanation of portfolio performance, particularly explaining the circumstances of any unusually high levels of delinquencies and losses, or loss reserves that appear inconsistent with actual losses. Such explanations should include any steps the organization is taking to remedy identified problems.

Also include an explanation of any debt-loss experience with high-risk borrowers.

#### 4. Financial Track Record

Complete the Applicant Activity Table for the Most Recently Completed Fiscal Year.

#### 5. Financial Projections

Applicants must submit a *cash flow pro forma* for the grant project. The pro forma should include both a statement of sources and uses of funds and a projection of annual cash flows during the Project Period. All amounts should be expressed on a cash (year of expenditure) basis and should include a narrative describing key assumptions in the business model used to arrive at such estimates. The pro forma should include:

- Projected cash flows (receipts and disbursements) through the Project Period, including separate line items for each category of allowable uses of reserve account funds (such as facilitating financing or guaranteeing leases). The cash flow must indicate the projected reserve account balance at the end of each year;
- Administrative cost charges covered by the Federal funds (0.25%) and non-grant sources such as donations;
- Explanation of amount and nature of all fees and expenses payable by the charter school participants associated with the grant project; and
- Anticipated interest and other earnings expected to be gained on grant funds.

If applicable, the applicant also should calculate the estimated effective financing rate (true interest cost) to charter schools participating in the grant project, and compare such percentage rate to other available financing sources.

#### 6. Financial Stability

Discuss the applicant's strategy for sustaining its projected operations through earned income, grants, contributions, or other resources. Discuss the applicant's strategy for capitalizing its loan,

guarantee, or investment fund through debt, equity, secondary markets, or other resources. Discuss the extent to which funding sources are diversified and any plans to maintain or increase the diversification of funding sources.

Complete the **Non-Grant Funds Projected to be Generated Table**.

7. Legal Background

Non-profit entities: Submit a copy of *articles of incorporation and by-laws.* 

Public entities: Submit a copy of *enabling statute* and other relevant legislation.

- C. Skills and Experience of the Grant Project Management Team as evidenced by:
  - 1. Management and Staff Experience

For each member of the management team and other key staff, submit:

- a. a description of current and past job responsibilities; education, experience and skills with particular attention to experiences in the fields of finance and education. The description of the individual's experience in education must include a discussion of their expertise in assessing the programs of charter schools. This information may be provided in the form of current resumes or detailed biographical statements. Position qualification statements should be included for staff the applicant plans to hire for the project.
- A description of the duties of the management team and key staff working on the project.
   Include any staff the applicant anticipates hiring, including through contracts, to work on the project.

#### 2. Board of Directors:

Non-profit applicants only: Submit a current list of the governing board members that indicates their tenure and organizational affiliations. Discuss the role(s) of the board of directors with respect to grant project and their qualifications in that regard.

(4) A description of how the grant project will leverage the maximum amount of private-sector and other non-Federal capital relative to the amount of Charter Schools Facilities Financing Demonstration Program Grant funding used, the type of schools to be served, and the type of assistance to be provided, and how the proposed activities will otherwise enhance credit available to charter schools. Also:

Provide a ratio of Federal funds to the anticipated amount of capital leveraged. For instance, if the size of the reserve account is \$1 million and \$5 million in bonds is guaranteed using funds in the reserve account, the ratio is 5:1.

Provide an explanation of the number and characteristics of charter schools to be served by the Project (e.g. size, demographics, and age of school -- start-up or experienced, etc.) Include an explanation of what types of services they will receive.

(5) In the case of an application submitted by a State governmental entity, a description of current and planned State funding policy and other forms of financial assistance that will help charter schools meet their facility needs.

Table 1 – Non-Grant Funds Projected to be Generated

Source	Project year 1	Project year 2	Project year 3	Project year 4	Project year 5	Remaining years	Total
1. Donations							
2. Fees not associated with grant							
3. Interest not associated with grant							
4. Borrowed funds (including lines of credit to be used)							
5. Appropriated funds							
6. Other							
Total							

The purpose of this table is to determine amount and expected source of revenues for the applicant.

Table 2 – Applicant Activity Table for the Most Recently Completed Fiscal Year

Outstanding credit-enhanced debt	Total activity			
Number of debt issues with credit enhancement				
Dollar amount of debt issues with credit enhancement	\$			
Outstanding leases guaranteed				
Number of leases guaranteed or insured				
Dollar amount of leases guaranteed or insured	\$			
Other means of facilitating financing (including both lending and the issuance of bonds) for the most recently completed fiscal year				
Number of clients assisted by facilitating financing <sup>1</sup>				
Amount of funds spent on facilitating financing (including both lending and the issuance of bonds)	\$			

Please provide a narrative associated with this table that briefly describes the types of assistance provided and the types of clients served, paying particular attention to any clients related to education, including charter schools. Each member of a consortium should complete this table separately.

If the organization is a start-up, please provide a narrative indicating the experience key personnel have related to the activities in the table. Start-up organizations are not required to complete the table.

<sup>&</sup>lt;sup>1</sup> Includes activities in Section 10325(a)(3) and (4).

#### **Budget Form – Grant Funds Expenditures**

Budget categories	Project year 1	Project year 2	Project year 3	Project year 4	Project year 5	Remaining vears	Total
A. Administrative funds (0.25%)							
B. Reserve account earnings							
C. Reserve account (99.75%)							
C.1. Grant funds spent on guaran	teeing and insuring	g debt and leases	1				
C.1.a. Personnel and fringe benefits							
C.1.b. Payments to third parties to guarantee or insure debt							
C.1.c. Other payments associated with guaranteeing and insuring debt and leases							
C.1. Total Guaranteeing and insuring debt and leases payments							
C.2. Grant funds spent on facilita	ting financing (incl	uding facilitating le	nding and the issu	ance of bonds) 2			
C.2.a. Personnel and fringe benefits			3	,			
C.2.b. Contractual							
C.2.c. Other payments associated with facilitating financing							
C.2. Total grant funds spent on facilitating financing (including facilitating lending and the issuance of bonds)							
C.3. Total direct costs (lines C.1. and C.2.)							
C.4. Indirect costs							
C.5. Total reserve account costs (lines C.3. and C.4.)							

The purpose of this table is to determine the amount of funds that the applicant intends to spend on activities to cover costs associated with the Charter Schools Facilities Financing Demonstration Grant. The table should include funds from the reserve account only in the year they are spent. The table should not include funds that remain in the reserve account and are used to directly guarantee or insure debt or leases.

<sup>&</sup>lt;sup>1</sup> Includes activities in Section 10325(a)(1) and (2). <sup>2</sup> Includes activities in Section 10325(a)(3) and (4).

Please complete the **Assurances for Non-Construction Programs** (ED 424B). This form is included in all hard copies of the application. The electronic form is available at this site at <a href="http://www.ed.gov/offices/OCFO/grants/appforms.html">http://www.ed.gov/offices/OCFO/grants/appforms.html</a>

Please complete the **Certifications Regarding Lobbying; Debarment, Suspension, and Other Responsibility Matters; and Drug-Free Workplace Requirements** (ED 80-0013). This form is included in all hard copies of the application. The electronic form is available at this site at <a href="http://www.ed.gov/offices/OCFO/grants/appforms.html">http://www.ed.gov/offices/OCFO/grants/appforms.html</a>

Please complete the **Certifications Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion – Lower Tier Covered** (ED 80-0014). This form is included in all hard copies of the application. The electronic form is available at this site at <a href="http://www.ed.gov/offices/OCFO/grants/appforms.html">http://www.ed.gov/offices/OCFO/grants/appforms.html</a>

Please complete the **Disclosure of Lobbying Activities** (SF LLL). This form is included in all hard copies of the application. The electronic form is available at this site at <a href="http://www.ed.gov/offices/OCFO/grants/appforms.html">http://www.ed.gov/offices/OCFO/grants/appforms.html</a>

# GUIDANCE ON SECTION 427 OF THE GENERAL EDUCATION PROVISION ACT

#### **Notice To All Applicants**

The purpose of this enclosure is to inform you about a provision in the Department of Education's General Education Provisions Act (GEPA) that applies to applicants for new grant awards under Department programs. This provision is Section 427 of GEPA, enacted as part of the Improving America's Schools Act of 1994 (Pub. L. 103-382).

#### To whom does this provision apply?

Section 427 of GEPA affects applicants for new grant awards under this program. All applicants for new awards must include information in their applications to address this provision in order to receive funding under this program.

#### What does this provision require?

Section 427 requires each applicant for funds (other than an individual person) to include in its application a description of the steps the applicant proposes to take to ensure equitable access to, and participation in its Federally-assisted program for students, teachers, and other program beneficiaries with special needs.

This provision allows applicants discretion in developing the required description. The statute highlights six types of barriers that can impede equitable access or participation: gender, race, national origin, color, disability, or age. Based on local circumstances, you should determine whether these or other barriers may prevent your students, teachers, etc. from such access or participation in, the Federally-funded project or activity. The description in your application of steps to be taken to overcome these barriers need not be lengthy; you may provide a clear and succinct description of how you plan to address those barriers that are applicable to your circumstances. In addition, the information may be provided in a single narrative, or, if appropriate, may be discussed in connection with related topics in the application.

Section 427 is not intended to duplicate the requirements of civil rights statutes, but rather to ensure that, in designing their projects, applicants for Federal funds address equity concerns that may affect the ability of certain potential beneficiaries to fully participate in the project and to achieve to high standards. Consistent with program requirements and its approved application, an applicant may use the Federal funds awarded to it to eliminate barriers it identifies.

## What are examples of how an applicant might satisfy the requirement of this provision?

The following examples may help illustrate how an applicant may comply with Section 427.

(1) An applicant that proposes to carry out an adult literacy project serving, among others, adults with limited English proficiency, might describe in its application how it intends to distribute a brochure about the proposed project to such potential participants in their native language.

- (2) An applicant that proposes to develop instructional materials for classroom use might describe how it will make the materials available on audio tape or in Braille for students who are blind.
- (3) An applicant that proposes to carry out a model science program for secondary students and is concerned that girls may be less likely than boys to enroll in the course, might indicate how it intends to conduct "outreach" efforts to girls, to encourage their enrollment.

We recognize that many applicants may already be implementing effective steps to ensure equity of access and participation in their grant programs, and we appreciate your cooperation in responding to the requirements of this provision.

#### **Estimated Burden Statement for GEPA Requirements**

The time required to complete this information collection is estimated to vary from 1 to 3 hours per response, with an average of 1.5 hours, including the time to review instructions, search existing data resources, gather and maintain the data needed, and complete and review the information collection.

If you have any comments concerning the accuracy of the time estimate(s) or suggestions for improving this form, please write to: U.S. Department of Education, Washington, DC 20202-4651.

OMB Control No. 1890-0007 (Exp. 9/30/04)

# SECTION D TRANSMITTAL INSTRUCTIONS AND CHECKLIST

#### **APPLICATION TRANSMITTAL INSTRUCTIONS**

An application for an award must be mailed or hand delivered by the closing date.

#### **Applications Sent By Mail:**

An application sent by mail must be addressed to the U.S. Department of Education, Application Control Center, Attention: CFDA 84.354A, 400 Maryland Avenue, SW, Washington, DC 20202-4725.

An application must show proof of mailing consisting of one of the following:

- (1) A legibly dated U.S. Postal Service Postmark.
- (2) A legible mail receipt with the date of mailing stamped by the U.S. Postal Service.
- (3) A dated shipping label, invoice, or receipt from a commercial carrier.
- (4) Any other proof of mailing acceptable to the U.S. Secretary of Education.

If an application is sent through the U.S. Postal Service, the Secretary does **not** accept either of the following as proof of mailing:

- (1) A private metered postmark, or
- (2) A mail receipt that is not dated by the U.S. Postal Service.

An applicant should note that the U.S. Postal Service does not uniformly provide a dated postmark. Before relying on this method, an applicant should check with its local post office.

An applicant is encouraged to use registered or at least first class mail.

Each late applicant will be notified that its application will not be considered.

#### **Applications Delivered by Hand/Courier Service:**

An application that is hand delivered must be taken to the U.S. Department of Education, Application Control Center, Room 3633, General Services Administration National Capital Region, 7th and D Streets, SW, Washington, DC 20202-4725. You must mark the package "Attention: CFDA 84.354A."

The Application Control Center will accept deliveries between 8:00 a.m., and 4:30 p.m. (Washington, DC time) daily, except Saturdays, Sundays, and Federal holidays.

Individuals delivering applications must use the D Street Entrance. Proper identification is necessary to enter the building.

In order for an application sent through a Courier Service to be considered timely, the Courier Service must be in receipt of the application on or before the closing date.

### APPLICATION CHECKLIST

Does your application include each of the following?

[]	Cover page (SF 424) [ ] Consortium Applicants attach a copy of consortium agreement
[]	Program narrative, including responses to the selection criteria
[]	Table 1- Non-Grant Funds Projected to be Generated
[]	Table 2- Applicant Activity Table for the Most Recently Completed Fiscal Year
[]	All other <i>applicable</i> documents  [ ] Standards of Conduct [ ] Credit Rating Reports [ ] Audited Financial Statements [ ] Cash Flow Pro Forma [ ] Non-profits: Articles of Incorporation and By-laws [ ] Public entities: Enabling Statutes and Other Relevant Legislation
[]	Budget form and other budget information
[]	Assurances and Certifications  [ ] Assurances—Non-Construction Programs [ ] Certifications Regarding Lobbying; Debarment; Suspension, and Other Responsibility Matters; Drug-Free Workplace Requirements [ ] Certification Regarding Debarment, Suspension, Ineligibility, and Voluntary Exclusion- Lower Tier Covered Transactions [ ] Disclosure of Lobbying Activity
[]	Response to Section 427 of GEPA Guidance
Did [ ]	You Provide one (1) original plus three (3) copies of the application (for a total of <b>4</b> copies)?
[]	Include all required forms with original signatures and dates?
[]	Submit a copy of the application to the State Single Point of Contact (if applicable)?
[]	Include "Attention: CFDA 84.354A" on the cover and envelope containing your application package?

# SECTION E ESTIMATED PUBLIC REPORTING BURDEN

#### **ESTIMATED PUBLIC REPORTING BURDEN**

#### **Paperwork Burden Statement**

According to the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless such collection displays a valid OMB control number. The valid OMB control number for this information collection is 1810-0644. The time required to complete this information collection is estimated to average 80 hours per response, including the time to review instructions, search existing data resources, gather the data needed, and complete and review the information collection. If you have any comments concerning the accuracy of the time estimate(s) or suggestions for improving this form, please write to: U.S. Department of Education, Washington, D.C. 20202-4651. If you have comments or concerns regarding the status of your individual submission of this form, write directly to: Charter Schools Facilities Financing Demonstration Program, U.S. Department of Education, 400 Maryland Avenue, S.W., Room 3E239, Washington D.C. 20202.

# SECTION F

# OTHER IMPORTANT INFORMATION AND NOTICES

#### INTERGOVERNMENTAL REVIEW OF FEDERAL PROGRAMS

This appendix applies to each program that is subject to the requirements of Executive Order 12372 (Intergovernmental Review of Federal Programs) and the regulations in 34 CFR part 79.

The objective of the Executive order is to foster an intergovernmental partnership and to strengthen Federalism by relying on State and local processes for State and local government coordination and review of proposed Federal financial assistance.

Applicants must contact the appropriate State Single Point of Contact to find out about, and to comply with, the State's process under Executive Order 12372. Applicants proposing to perform activities in more than one State should immediately contact the Single Point of Contact for each of those States and follow the procedure established in each of those States under the Executive order. A listing containing the Single Point of Contact for each State is included in this appendix.

In States that have not established a process or chosen a program for review, State, areawide, regional, and local entities may submit comments directly to the Department.

Any State Process Recommendation and other comments submitted by a State Single Point of Contact and any comments from State, area-wide, regional, and local entities must be mailed or hand-delivered by the date indicated in the actual application notice to the following address: The Secretary, EO 12372--CFDA# 84.354A, U.S. Department of Education, Room 7W100, 400 Maryland Avenue, SW., Washington, DC 20202

Proof of mailing will be determined on the same basis as applications (see 34 CFR 75.102). Recommendations or comments may be hand-delivered until 4:30 p.m. (Washington, DC time) on the date indicated in the actual application notice.

PLEASE NOTE THAT THE ABOVE ADDRESS IS NOT THE SAME ADDRESS AS THE ONE TO WHICH THE APPLICANT SUBMITS ITS COMPLETED APPLICATION.  $\underline{DO}$  NOT SEND APPLICATIONS TO THE ABOVE ADDRESS.

#### STATE SINGLE POINTS OF CONTACT (SPOCS)

Executive Order 12372, "Intergovernmental Review of Federal Programs," was issued with the desire to foster the intergovernmental partnership and strengthen Federalism by relying on State and local processes for the coordination and review of proposed Federal financial assistance and direct Federal development. The Order allows each State to designate an entity to perform this function. Below is a copy of the official list of those entities. For those States that have a home page for their designated entity, a direct link has been provided from the official version of this document from the OMB web page at the following address: <a href="http://www.whitehouse.gov/omb/grants/spoc.html">http://www.whitehouse.gov/omb/grants/spoc.html</a>

This publication by the U.S. Department of Education (ED or the Department) is an unofficial version of the State Single Point of Contact (SPOC) List published by the Office of Management and Budget (OMB). The Department has made every effort to ensure the accuracy of the information contained in this unofficial version. However, the only official version of the State Single Point of Contact (SPOC) List is posted on the Grants Management section of the OMB web site listed above.

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# IMPORTANT NOTICE TO PROSPECTIVE PARTICIPANTS IN U.S. DEPARTMENT OF EDUCATION CONTRACT AND GRANT PROGRAMS

#### **GRANTS**

Applicants for grants from the U.S. Department of Education (ED) have to compete for limited funds.

Deadlines assure all applicants that they will be treated fairly and equally, without last minute haste.

For these reasons, ED must set strict deadlines for grant applications. Prospective applicants can avoid disappointment if they understand that:

Failure to meet a deadline will mean that an applicant will be Rejected without any consideration whatever.

The rules, including the deadline, for applying for each grant are published, individually, in the Federal Register. A one-year subscription to the Register may be obtained by sending \$340.00 to: Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402-9371. (Send check or money order only, no cash or stamps.)

The instructions in the Federal Register must be followed exactly. Do not accept any other advice you may receive. No ED employee is authorized to extend any deadline published in the Register.

Questions regarding submission of applications may be addressed to:

U.S. Department of Education Application Control Center Washington, D.C. 20202-4725

#### **CONTRACTS**

Competitive procurement actions undertaken by the ED are governed by the Federal Procurement Regulation and implementing ED Procurement Regulation.

Generally, prospective competitive procurement actions are synopsized in the Commerce Business Daily (CBD). Prospective offerors are therein advised of the nature of the procurement and where to apply for copies of the Request for Proposals (RFP).

Offerors are advised to be guided solely by the contents of the CBD synopsis and the instructions contained in the RFP. Questions regarding the submission of offers should be addressed to the Contracts Specialist identified on the face page of the RFP.

Offers are judged in competition with others, and failure to conform with any substantive requirements of the RFP will result in rejection of the offer without any consideration whatever.

Do not accept any advice you receive that is contrary to instructions contained in either the CBD synopsis or the RFP. No ED employee is authorized to consider a proposal which is non-responsive to the RFP.

A subscription to the CBD is available for \$208.00 per year via second class mailing or \$261.00 per year via first class mailing. Information included in the Federal Acquisition Regulation is contained in Title 48, Code of Federal Regulations, Chapter 1 (\$49.00). The foregoing publication may be obtained by sending your check or money order only, no cash or stamps, to:

Superintendent of Documents U.S. Government Printing Office Washington, D.C. 20402-9371

In an effort to be certain this important information is widely disseminated, this notice is being included in all ED mail to the public. You may therefore, receive more than one notice. If you do, we apologize for any annoyance it may cause you.

ED FORM 5348, 8/92